



# Department of Planning, Housing, & Community Development

**Mayor, Richard C. David**  
Acting Director, Jennifer M. Taylor

## ***STAFF REPORT***

TO: Zoning Board of Appeals Members  
FROM: Planning, Housing and Community Development  
DATE: March 12, 2014  
SUBJECT: 135-149 Conklin Avenue; Area Variance  
Tax ID: 160.58-1-4, 160.59-1-1  
CASE: 2014-05  
COPIES: A. Sosa, T. Costello, J. Matzo (District 6), File

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### **A. VARIANCE REQUESTED**

The applicant has requested an area variance of minimum off-street parking for a Light Industrial facility (dairy processing plant) at 135 Conklin Avenue, within the I-2, Light & Medium Industrial District. The site does not have, nor can it accommodate, off-street parking as required for this use. The Zoning Code would require 1.00 off-street parking space be provided per 800 square feet of gross floor area, or 91 parking spaces. The applicant's proposed plans provide for 44 parking spots, requiring an area variance for minimum off-street parking.

In granting an area variance, the Zoning Board of Appeals must weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

- (a). **Undesirable change**: Whether an undesirable change will be produced in the character of the neighborhood, or whether a detriment to nearby properties will be created;
- (b). **Reasonable alternative**: Whether the Applicant can achieve his goals via a reasonable alternative that does not involve the necessity of an area variance;
- (c). **Substantial request**: Whether the variance requested is substantial;
- (d). **Physical and Environmental Conditions**: Whether the requested variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district;
- (e). **Self-created hardship**: Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

## **B. SITE REVIEW**

The site is composed of two adjacent parcels known as 135 Conklin Avenue and 149 Conklin Avenue. 135 Conklin is a 1.08 acre lot on the north side of Conklin Avenue between High Street and Telegraph Street. The parcel is the location of a 2-story industrial facility with 72,930ft<sup>2</sup> of gross floor area, originally operated as a dairy processing plant by Crowley and, most recently, Hood. 149 Conklin Avenue is a vacant lot immediately to the east of 135 Conklin that will be redeveloped by the applicant as an ancillary parking lot for the industrial facility.

The parking areas in the applicant's proposal are situated to the east and west of the structure on 135 Conklin and at 149 Conklin. The eastern parking area will contain 5 parking spaces, the western parking area will contain 27 parking spaces and the parking area at 149 Conklin will contain 12 spaces.

Land use in the area is a mix of two- and multi- family residential to the south, commercial to the southeast and west, and industrial to the east. Commercial uses in the vicinity include: Servpro, Manley's, an auto repair business, a diner, bars/taverns, and small general retail establishments.

## **C. ADDITIONAL REVIEWS**

The application and materials were submitted to the Traffic Board on March 20<sup>th</sup>. They found no negative impacts associated with the proposed plan.

## **D. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY**

### 130-136 Conklin Avenue, 1 Birch Street:

- A use variance was granted to Doug Gardner Enterprises in January of 2002 to assemble electronic components.
- In 1996, a Special Use Permit was denied to the Salvation Army to operate a church.

### 145 Conklin Avenue:

- The Planning Commission approved a Series A Site Plan application submitted by Crowley's in 1989 for a 1,680 sf addition to its existing milk processing facility.
- In 1989, the Zoning Board granted two area variances to Crowley's to permit the construction of a 1,680 sf addition on the western end of the complex.
- An area variance of front yard setback requirements was granted to Crowley's in 1988 for the construction of an addition to its plant.

### 146-156 Conklin Avenue, 7 Lucy Street:

- In March of 1999, the Planning Commission approved a Special Use Permit to allow the construction of a Manley's Mighty Mart gasoline convenience market.
- The Zoning Board granted area variances of signage and rear yard setback requirements in March of 1999 to allow the construction of a Manley's Mighty Mart gasoline convenience market.

162 Conklin Avenue: In 1970, the Zoning Board of Appeals denied an area variance request by Albert Stento to enlarge an existing building for use as a restaurant.

## E. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **UNLISTED** Action. The Planning Commission may be the lead agency to determine any environmental significance. **Because of the potential for the site to be hazardous to human health, it is recommended that a Phase I ESA be required before a determination of significance.**

1. Motion to determine what type of action:
  - a. Type I
  - b. Type II
  - c. **Unlisted**
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance. (See EAS Part 2 & Part 3)

	NO, OR SMALL IMPACT MAY OCCUR	MODERATE TO LARGE IMPACT MAY OCCUR
Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<b>X</b>	
Will the proposed action result in a change in the use or intensity of use of land?	<b>X</b>	
Will the proposed action impair the character or quality of the existing community?	<b>X</b>	
Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<b>X</b>	
Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<b>X</b>	
Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<b>X</b>	
Will the proposed action impact existing: A. public / private water supplies? B. public / private wastewater treatment utilities?	<b>X</b>	

Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<b>X</b>	
Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<b>X</b>	
Will the proposed action result in an increase in the potential for erosion, flooding or drainage Problems?	<b>X</b>	
Will the proposed action create a hazard to environmental resources or human health?	<b>X</b>	

## F. STAFF FINDINGS

Planning Staff has the following findings:

- 1. The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.**

The variance will not produce any change in the character of the neighborhood. The applicant is continuing the previous conforming use of the site. In addition, the only physical changes to the site will be the resurfacing of existing parking areas.

- 2. The Zoning Board of Appeals must determine if there are any reasonable alternatives to the proposed variances.**

A reasonable alternative would be for the applicant to lease parking spaces from a property within 800 feet of the site. The applicant has sought out potential parking areas to lease, but has not been able to come to an agreement with any local property owners.

- 3. The Zoning Board of Appeals must determine if the proposed area variances are substantial.**

While the proposed use requires 91 parking spaces per Code, the applicant projects needing less than half of that number for its employees. Therefore, the demand for parking would be far less than the amount of parking required.

- 4. The Zoning Board of Appeals must determine whether the alleged difficulty was self created.**

## G. ENCLOSURES

Enclosed are copies of the floor plan, the application and site photos.

Report prepared by:  
Tito L. Martinez